

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7214**

**BILL NUMBER: SB 322**

**NOTE PREPARED: Feb 20, 2004**

**BILL AMENDED: Feb 19, 2004**

**SUBJECT:** Underground Storage Tank Cleanup Funding & Brownfield Tax Waivers.

**FIRST AUTHOR:** Sen. Gard

**FIRST SPONSOR:** Rep. Bottorff

**BILL STATUS:** CR Adopted - 2<sup>nd</sup> House

**FUNDS AFFECTED: X GENERAL  
DEDICATED  
FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) **A)** This bill establishes a procedure for an owner of, or a person that desires to own, a brownfield to petition the county or municipal fiscal body to waive or reduce the outstanding charges against the brownfield listed on the tax duplicate. It also requires the county property tax assessment board of appeals to hold a hearing on the petition and make a recommendation to the fiscal body.

**B)** The bill allows the Underground Storage Tank Financial Assurance Board to recommend that the Indiana Development Finance Authority issue its bonds to provide an additional source of revenue to the Underground Petroleum Storage Tank Excess Liability Trust Fund.

**Effective Date:** July 1, 2004.

**Explanation of State Expenditures:** (*Revised*) **A)** The Department of Local Government Finance (DLGF) must prescribe the form for the petition for a waiver or reduction of tax liability for the owner of a brownfield. The State Board of Accounts must approve the form. The petition must include a statement from the Department of Environmental Management (IDEM) that the property is a brownfield. These provisions should not have a significant impact on the agencies involved.

Upon receipt of a petition, the county auditor must forward a copy of the petition to IDEM and the DLGF. The local board must also forward to the DLGF whether the petition has been approved. Upon receipt by the DLGF of a recommendation by the fiscal body to waive or reduce the delinquent tax liability, the DLGF must review the petition and the notice received from the fiscal body and deny the petition or waive or reduce the delinquent tax liability. The DLGF must give notice of its determination and the right to seek an appeal by mail to the petitioner; the owner, if different from the petitioner; all persons that have a substantial property interest of public record in the brownfield; the assessor of the township; the county board; the fiscal body of

the county, city or town; and the county auditor.

A person aggrieved by a DLGF determination may obtain an additional review by the DLGF and a public hearing by filing a petition for review with the county auditor. The county auditor must transmit the petition to the DLGF not more than ten days after the petition is filed.

On receipt of the petition for review, the DLGF must hold a hearing and give notice, by mail, of the date, time, and place fixed for the hearing to all the interested parties that received the notice of determination. After the hearing, the DLGF must give these same parties notice by mail of the DLGF's final determination.

A petitioner may appeal the DLGF's final determination with the Indiana Board of Tax Review by filing a petition with the county assessor.

The above provisions that require the DLGF and the Indiana Board of Tax Review to review petitions and hold hearings will result in additional administrative expenses for these agencies. However, the agencies should be able to absorb any additional expenses given their current budgets and resources.

**B) Background:** The Underground Petroleum Storage Tank Excess Liability Trust Fund (ELTF) is used as a source of money for the following: for satisfying liabilities incurred by owners and operators of underground storage tanks (UST); for indemnification of third parties; and for reimbursing the Department of Environmental Management (Department) for administering claims against ELTF.

The Indiana Development Finance Authority may issue bonds to be used as a revenue source of ELTF. Other sources of money for ELTF come from the following: fees and penalties for owners and operators of USTs; appropriations from the General Assembly; gifts and donations; and inspection fees.

The ending balance of ELTF for FY 2003 was approximately \$52M; the ending balance for FY 2002 was \$68M. According to the Department, claims made to ELTF have increase from 400 in 1998 to more than 2,700 in 2002. The Department estimates that, on average, 200 new releases are reported each year.

### **Explanation of State Revenues:**

**Explanation of Local Expenditures:** *(Revised)* **A)** A person that owns or desires to own a brownfield may petition the county auditor for a reduction or waiver of the delinquent tax liability. If the petition is not complete, the county auditor must return the petition to the petitioner and describe the defects in the petition. On receipt of a complete petition, the county auditor must forward a copy to the assessor of the township; the owner, if different from the petitioner; all interested persons; the county property tax assessment board of appeals; the fiscal body of the unit; IDEM; and the DLGF.

The county property tax assessment board of appeals must conduct a public hearing on the petition and give notice of the date, time, and place fixed for the hearing by mail to the petitioner; the owner; all interested persons; and the assessor of the township. The board may recommend that the DLGF grant the petition or approve a reduction of the delinquent tax liability if the brownfield was acquired under certain conditions. After the hearing and completion of any additional investigation of the brownfield or of the petitioner that the board considers necessary, the board must give notice, by mail, of the board's recommendation to the DLGF, the fiscal body of the unit involved, and other interested parties and assessing officials.

The fiscal body must at a regularly scheduled meeting review the petition and deny the petition or recommend that the DLGF waive or reduce the delinquent tax liability. The fiscal body must publish notice

of its consideration of the petition and forward to the DLGF written notice of its action. The DLGF makes the final determination.

A person aggrieved by a DLGF determination may obtain an additional DLGF review and a public hearing by filing a petition for review with the county auditor. The county auditor must transmit the petition to the DLGF not more than ten days after the petition is filed.

If the petition is approved, the county auditor must reduce or remove the delinquent tax liability on the tax duplicate.

The above provisions will increase local expenditures by an indeterminable amount. The overall impact, however, is not expected to be great because it will be limited to counties in which brownfields are located and whose owner seeks a reduction or waiver of taxes. Additionally, the auditor is authorized to assess a fee for completing a title search and processing the petition.

**Explanation of Local Revenues:** *(Revised)* **A)** The county may impose a fee on a person that owns a brownfield who files a petition for a reduction or waiver of the delinquent tax liability. The fee should cover the costs of completing a title search and processing the petition. The amount of revenue that the fee will generate is indeterminable and will depend on the number of petitions filed.

**State Agencies Affected:** **A)** Department of Local Government Finance, Department of Environmental Management, Indiana Board of Tax Review, and the State Board of Accounts. **B)** Department of Environmental Management; Indiana Development Finance Authority.

**Local Agencies Affected:** **A)** County property tax assessment board of appeals; township assessing officials; and cities, towns, and counties in which brownfields are located.

**Information Sources:** Department of Environmental Management.

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